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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1295th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

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The meeting was called to order at 10.20 a.m.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 9) (continued)

Joint working paper with the Sub-Commission on Prevention of Discrimination and Protection of Minorities on article 7 of the Convention: meeting with a member of the Sub-Commission (E/CN.4/Sub.2/1998/4)

1. The CHAIRMAN welcomed Mr. Bengoa, a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities who, together with another member of the Sub-Commission, Mr. Mehedi, and two members of the Committee, Mr. Garvalov and Mrs. Sadiq Ali, had prepared a joint working paper (E/CN.4/Sub.2/1998/4) on article 7 of the Convention, which dealt with measures in the fields of teaching, education, culture and information to combat prejudice and promote understanding, tolerance and friendship among nations and racial or ethnic groups. The joint working paper marked a new kind of cooperation between the Committee and the Sub-Commission, which he hoped would be continued in the future.

2. Mr. GARVALOV explained that the working paper was the first to compare the Committee's view of article 7 of the Convention with that taken by the Sub-Commission. It reviewed the action taken by the United Nations to draw States parties' attention to article 7 and described the contributions made by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organization (ILO). The working paper also described how States themselves saw their role in the implementation of article 7. It ended with a number of preliminary conclusions and recommendations.

3. The authors felt that the report should be updated in the near future to take into account pertinent issues not covered in the first version, and would be a valuable contribution by the Committee and the Sub-Commission to the planned World Conference against Racism and Racial Discrimination, Xenophobia and related Intolerance.

4. Mr. BENGOA (Sub-Commission on Prevention of Discrimination and Protection of Minorities) said that the preparation of the joint working paper had been a valuable experience, and he hoped that the cooperation between the Committee and the Sub-Commission would continue.

5. He was responsible for the section of the report dealing with Latin America (paras. 117-163), and he welcomed the opportunity to study in detail the reports of States parties to the Convention in the Latin American region.

6. Having studied reports dating back some 15 years, he had noted a considerable change in the attitude of reporting Governments. Until about 10 years before, Latin American Governments had often refused to acknowledge that any racial discrimination existed in their countries at all: the reports had merely described the provisions of domestic legislation which prohibited racial discrimination. However, during the 1990s, States parties had begun to acknowledge that racial discrimination did take place and describe the

practical measures they were taking to combat it. A report submitted to the Committee by Bolivia in 1995 (CERD/C/281/Add.1) contained an emotional testimony from the Vice-President of the Republic, Victor Hugo Cárdenas, about the racial discrimination which had affected his own family. That change in attitude seemed to be due to the Committee's efforts to establish a real dialogue with States parties.

7. The section of the report dealing with Latin America described three main groups which suffered from racial discrimination: indigenous people, people of African origin and migrant workers, who were subject to the same kind of discrimination and xenophobia as their counterparts in Europe.

8. The CHAIRMAN said that many countries, not only in Latin America, claimed to be free from racial discrimination, whereas the Committee was convinced that it existed in all countries. He assured Mr. Bengoa that the Committee paid all due attention to the situation of migrant workers of Latin American origin working in other parts of the world.

9. He noted that the joint working paper was technically a document of the Sub-Commission, and bore a Sub-Commission document symbol: perhaps any further documents issued jointly by the two bodies should bear the Committee's document symbol as well.

10. Mr. VALENCIA RODRIGUEZ said that the excellent paper would promote a better understanding of the scope and the importance of article 7 of the Convention in furthering understanding and tolerance between peoples, nations and ethnic groups.

11. In the past, the Committee's work on the scope and importance of article 7 had provided valuable guidance about the need for human rights education for other United Nations treaty monitoring bodies. The joint working paper was a significant contribution to the work of both the Committee and the Sub-Commission, and would provide valuable input to the planned World Conference against Racism. He welcomed the working paper's conclusions (paras. 164-184), which were addressed both to Governments and to the general public and, inter alia, called for human rights education for schoolchildren and students at all levels and for greater coverage of human rights issues in the mass media.

12. Mr. de GOUTTES said that article 7 was a key article of the Convention, since any campaign to combat racial discrimination must begin with education. The authors of the working paper had had limited sources of information to work from, namely the reports of States parties to the Convention for the period 1995-1997 and the replies of 19 Member States of the United Nations to a questionnaire asking about the steps they had taken in the field of human rights education to combat racial discrimination. The authors might also have made use of information provided by non-governmental organizations (NGOs) and national human rights institutions.

13. He drew attention to paragraph 25 of the report, which dealt with the Committee's early warning and urgent procedures, a particularly important part of the Committee's activities which included education and training measures.

14. The overview of the implementation of article 7 by States parties in paragraphs 41-51 painted a generally negative picture. The part of the working paper dealing with the situation in Morocco (paras. 69-72) should be updated if possible, since Morocco's twelfth and thirteenth periodic reports (CERD/C/298/Add.4), which had been considered by the Committee at its current session, gave details of recent measures to promote the Berber language.

16. The CHAIRMAN thanked Mr. Bengoa for his participation in the Committee's discussion.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the initial, second and third periodic reports of Croatia (CERD/C/53/Misc.25, future CERD/C/304/Add.55)

17. Mr. YUTZIS (Country Rapporteur) said that the draft concluding observations (CERD/C/53/Misc.25, future CERD/C/304/Add.55) took into account members' comments and recommendations. The document listed the most important aspects of the situation in Croatia, which was still fraught with conflict, and asked for further information on issues of particular concern.

Paragraph 2

18. Mr. SHAHI pointed out that the Croatian delegation had given information about the economic, social and cultural rights of the Serb minority only. He had asked for similar information about other ethnic minorities in Croatia, but had received no reply.

19. Mr. YUTZIS said that relevant information about the rights of other ethnic minorities was contained in Croatia's report (CERD/C/290/Add.1).

20. The CHAIRMAN suggested that paragraph 2 should be left as it was and that a reference should be made in the section "Principal subjects of concern" requesting further information about the economic, social and cultural rights of minorities other than the Serbs.

21. Paragraph 2 was adopted.

Paragraph 3

22. Mr. YUTZIS (Country Rapporteur), referring to the point just raised by Mr. Shahi in respect of paragraph 2, said that the terms "minorities" and "minority communities" were intended to refer to all minorities, not just the Serb minority.

23. Paragraph 3 was adopted.

Paragraph 4

24. Mr. SHAHI suggested that the phrase "diverse conflicts" should be replaced by "ethnic conflicts".

25. Mr. YUTZIS (Country Rapporteur) said that the word "diverse" had been intended to reflect the recent history of the former Yugoslavia. The conflicts had originally been of a more political nature: it was only since the break-up of the former Yugoslavia that they had become ethnic in nature.

26. Mr. RECHETOV agreed that the term "diverse" was preferable.

27. The CHAIRMAN said that the situation in the former Yugoslavia had, arguably, also been affected by foreign influences, which would be covered by the word "diverse".

28. Mr. SHAHI withdrew his amendment.

29. Paragraph 4 was adopted.

Paragraph 5

30. The CHAIRMAN asked why the Commission on Human Rights had been singled out and what was meant by "technical cooperation".

31. Mr. YUTZIS (Country Rapporteur) said that it had seemed important to highlight the Commission on Human Rights as the body that dealt with all aspects of human rights.

32. The Government of the Republic of Croatia had specifically requested technical assistance from the Advisory Services, Technical Assistance and Information Branch. The wording could be changed to make it clearer that the Committee welcomed the assistance of and cooperation with the Branch, and cooperation in the area of human rights as a whole and with the Committee in particular.

33. Mr. RECHETOV said that the reference to the Commission added nothing to the paragraph. As it stood, the wording provided no linkage between confidence-building measures and the objectives of the Convention and was confusing.

34. Mr. DIACONU said that the second sentence should end with "... confidence-building measures in this field and welcomes its spirit of cooperation with the Committee and appropriate United Nations bodies".

35. Paragraph 5, as amended, was adopted.

Paragraph 6

36. The CHAIRMAN said that in the light of the amendment to paragraph 5, paragraph 6 could be deleted and subsequent paragraphs renumbered.

37. It was so decided.

38. Paragraph 6 was deleted.

Paragraph 8

39. Mr. DIACONU said that "temporary non-implementation of certain provisions" should be replaced with "the suspension of certain provisions", to reflect more accurately the legislative situation in Croatia.

40. Paragraph 8, as amended, was adopted.

Paragraph 11

41. The CHAIRMAN, speaking as a member of the Committee, said that the penultimate sentence referred solely to "the return of Serbs displaced" in the Region of Eastern Slavonia, Baranja and Western Sirmium, when there were other displaced persons about whose plight the Committee should also express concern.

42. Mr. YUTZIS (Country Rapporteur) said that the paragraph reflected the enormous volume of information available on Eastern Slavonia, Baranja and Western Sirmium, most of which referred to the particularly difficult situation facing Serbs. That information included the report of the Special Rapporteur of the Commission on Human Rights, Ms. Elisabeth Rehn (E/CN.4/1998/14). The words "in particular" could be inserted to imply that there were other ethnic groups concerned, although the information available to the Committee related mostly to Serbs.

43. The CHAIRMAN, speaking as a member of the Committee, said that there were other groups, including Bosnians, facing difficulties in the Region, which was a matter of concern to countries in his part of the world. It should therefore be made clear that the Committee was concerned about the difficulties facing all displaced persons and in all areas, not just in that Region.

44. Mr. YUTZIS (Country Rapporteur) said that the bulk of the information had been provided by people who had looked carefully at the situation of displaced persons. An entire chapter in the report of the Special Rapporteur (E/CN.4/1998/14) had been devoted to what was happening in the Region of Eastern Slavonia, Baranja and Western Sirmium and he had based his conclusions on those findings.

45. The CHAIRMAN said that he, too, had his sources of information which would make it preferable to refer to all displaced persons.

46. Mr. SHAHI, supported by Mr. RECHETOV, suggested that the text be revised to read "... Serbs and others".

47. Paragraph 11, as amended, was adopted.

Paragraph 12

48. Mr. SHAHI said that if it were true that only ethnic Serbs were facing excessive delays in the processing of applications for citizenship, the wording could stand. If that were not the case, a broader reference should be made.

49. Mr. DIACONU said that the reference in the first sentence to "the principle of non-discrimination as a criterion for the granting of citizenship" should be changed to "the principle of non-discrimination in the enjoyment of the right to nationality" in order to bring it into line with the wording of article 5 of the Convention.

50. Mr. YUTZIS (Country Rapporteur) said that "in particular those of ethnic Serbs" implied that other groups also faced excessive delays but that the problem was most acute in the case of Serbs, which was a statement of fact.

51. The amendment proposed by Mr. Diaconu did not appear to make any substantive difference to the text.

52. Mr. RECHETOV endorsed the emphasis in the text on the situation of Serbs, with wording that did not discount the fact that other ethnic groups were also facing difficulties.

53. He suggested that "the principle of non-discrimination as a criterion for the granting of citizenship is not implemented and that" should be deleted in the interests of clarity.

54. The CHAIRMAN, speaking as a member of the Committee, said that there seemed to be a tendency to concentrate on the situation of Serbs as if they were the only group facing discrimination, or bearing the brunt of it, which from what he had read was not necessarily the case. The situation of all minorities should be dealt with equally.

55. Mr. YUTZIS (Country Rapporteur) said that the Committee's report must accurately reflect the discussion held with the State party during consideration of its third periodic report (CERD/C/290/Add.1). The information the Committee had received had not dealt extensively with the situation of other groups. It might have been an oversight on the part of the Committee in that it had not asked enough questions about other groups.

56. The CHAIRMAN said that he had asked about other groups but that one or two voices, including his own, could easily be lost in a discussion that leaned heavily in a certain direction; that being said, he would not press the point further.

57. Mr. SHAHI said that the questions on other minorities which he had raised during the debate with the Republic of Croatia had not been answered. Excessive delays in the processing of applications for citizenship from other minorities should also be mentioned since Croatia was a multi-ethnic country.

58. Mr. DIACONU suggested that the Committee should accept the deletion put forward by Mr. Rechetov and insert "in granting citizenship" at the end of the first sentence.

59. Paragraph 12, as amended, was adopted.

Paragraph 13

60. The CHAIRMAN expressed concern about the second sentence, which yet again seemed to focus attention on the Serbs. In particular he questioned the appropriateness of the term "non-Serbs". He would not press for an amendment, but would be guided by the Country Rapporteur's views on the matter.

61. Mr. YUTZIS (Country Rapporteur) said that the draft concluding observations were merely a working basis for the Committee's consideration and did not reflect only his personal views.

62. Mr. DIACONU endorsed the Chairman's remarks about the second sentence, which might well give the impression that when considering Croatia's periodic reports the Committee had focused exclusively on the issue of discrimination against the Serb community. He therefore suggested that it should end with the words "at ethnic Serbs" and that the word "all" should be inserted before "crimes of an ethnic nature". That would make for a more balanced statement reflecting the Committee's basic concern, namely the failure of the Croatian criminal justice system to deal adequately with crimes of an ethnic nature.

63. Mr. SHAHI asked whether the statement in paragraph 13 was based on information contained in Croatia's periodic reports or was taken from other sources, such as the Special Rapporteur of the Commission on Human Rights. It did seem to imply that only the Serbs were the victims of discrimination.

64. Mr. RECHETOV said it hardly seemed appropriate at that juncture in the Committee's proceedings to enter into a debate on the sources of information used for its concluding observations. He expressed support for the amendment proposed by Mr. Diaconu.

65. The CHAIRMAN said that Mr. Rechetov had made a very valid point and urged members of the Committee to confine their comments to drafting matters.

66. Mr. YUTZIS (Country Rapporteur) said it would have been preferable if the Committee had discussed such important matters of substance during its consideration of the State party's report. Clearly, there were different interpretations as to who the main victims of discrimination were in Croatia. He had good reason to believe that they were indeed the Serbs. During his visit to Croatia he had observed at first hand the deep tensions between Croats and Serbs, notably in the refugee camps, and the fact that greater support was provided to Bosnian refugees.

67. The CHAIRMAN said that the aim was to reach consensus on the draft concluding observations but there was also a need to accommodate the concerns of individual members. The fact that an issue had been raised by one member only did not mean it was any less important than that raised by several members. Comments which had not been made during the discussion of the State party's reports could be added under sections (d) and (e), as appropriate.

68. Mr. SHAHI said that, in the light of Mr. Yutzis' clarifications, it did seem important to retain the latter half of the second sentence. He therefore suggested that paragraph 13 should be adopted as it stood.

69. Paragraph 13 was adopted.

Paragraph 14

70. Mr. GARVALOV said that paragraph 14 required some redrafting. As currently worded it implied that the Committee was concerned about reports, whereas in fact it was concerned about information contained, on the one hand, in reports relating to strong government control of the media, and, on the other, in the reports of United Nations bodies which highlighted a lack of information and awareness of international human rights standards among the Croat population.

71. Mr. BANTON agreed that the paragraph should be amended along those lines and suggested that the redrafting could be done outside the meeting.

72. The CHAIRMAN said he took it that that was acceptable, and that the new wording would take account of comments made by Mr. SHERIFIS.

73. Paragraph 14 was adopted on that understanding.

Paragraph 15

74. In reply to a question by the CHAIRMAN, Mr. YUTZIS (Country Rapporteur) said that his own preference for the wording "strongly recommends" was not shared by all members, which was why "strongly" had been placed in square brackets.

75. Mr. SHAHI inquired whether the phrase "strongly recommends" had been used by the Committee in the past.

76. Mr. SHERIFIS continued that the phrase had been used many times by the Committee before, one example of which could be seen in was paragraph 350 of its report to the General Assembly (A/52/18).

77. Mr. van BOVEN said that he had been one of the members who had questioned the use of "strongly", since it implied that the Committee might issue strong and weak recommendations. He would prefer the word to be deleted.

78. The CHAIRMAN asked whether only the Serbian ethnic community was affected by the provisions relating to representation in the Croatian Parliament, as the current wording of paragraph 15 seemed to imply.

79. Mr. YUTZIS (Country Rapporteur) confirmed that only the Serb minority had been affected by the suspension of the provisions in question.

80. Paragraph 15 was adopted, subject to the deletion of the word "strongly".

Paragraph 16

81. Paragraph 16 was adopted, subject to the deletion of the word "strongly".

Paragraph 17

82. The CHAIRMAN queried the implication of the words "bodily harm" used in the last sentence.

83. Mr. YUTZIS (Country Rapporteur) said that, as he had highlighted during the discussion of the State party's report, there had been a significant number of cases of physical assault against refugees to which attention must be drawn in the concluding observations. Perhaps "bodily harm" was not the most appropriate wording in English.

84. The CHAIRMAN said that the wording used was in conformity with that of article 5 (b) of the Convention.

85. Paragraph 17 was adopted.

Paragraph 19

86. The CHAIRMAN asked whether any Croatian citizens faced trial before the International Criminal Tribunal for the Former Yugoslavia. If so, surely it should be reflected in the paragraph.

87. Mr. WOLFRUM said that, to his knowledge, there were at least three Croatian citizens in such a situation.

88. Mr. BANTON said that point was already covered in paragraph 22.

89. Paragraph 19 was adopted.

Paragraph 20

90. Mr. DIACONU said that it seemed to be asking too much of the State party to recommend that it should "engage in a public awareness-raising campaign" and proposed redrafting the first sentence, between the words "State party" and the words "traditional prejudices", to read: "use appropriate means to inform the public about the Convention, with a view to attempting to change".

91. Mr. YUTZIS (Country Rapporteur) said that the problem in Croatia was not that the Government was not using appropriate means but rather that it lacked the political will to do anything to inform the public about the Convention.

92. Mr. SHERIFIS, supported by Mr. DIACONU and Mr. YUTZIS, said that the State party could be asked to "promote the familiarization of the public with the Convention in order to change traditional prejudices ...".

93. The CHAIRMAN said he felt that would hardly be enough to reverse prejudice and intolerance. A real campaign was in fact needed.

94. Mr. van BOVEN proposed the adoption of Mr. Diaconu's amendment but substituting "effective means" for "appropriate means".

95. It was so agreed.

96. Paragraph 20, as amended, was adopted.

Paragraph 21

97. Mr. BANTON, supported by Mr. SHERIFIS, proposed substituting the words "effective measures" for the words "persistent measures" in the second sentence.

98. Paragraph 21, as amended, was adopted.

Paragraph 22

99. The CHAIRMAN said that rather than asking the State party for information on its cooperation with the International Criminal Tribunal for the Former Yugoslavia, it should simply be asked to cooperate.

100. Mr. BANTON, supported by Mr. van BOVEN, Mr. YUTZIS and Mr. SHERIFIS, proposed that the phrase "the State party's cooperation with the International Criminal Tribunal for the Former Yugoslavia," should be amended to read: "and on what it has done to discharge its obligation to cooperate with ...".

101. Paragraph 22, as amended, was adopted.

102. The draft concluding observations concerning the initial, second and third periodic reports of Croatia as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth and thirteenth periodic reports of Morocco (CERD/C/53/Misc.26, future CERD/C/304/Add.57)

103. Mr. de GOUTTES (Country Rapporteur) said that the draft text incorporated amendments suggested to him by other members of the Committee.

Paragraph 2

104. Mr. DIACONU proposed the deletion of the word "very" each time it was used in the last sentence.

105. Paragraph 2, as amended, was adopted.

Paragraph 3

106. Mr. RECHETOV observed that in paragraph 3 - as also in paragraphs 4, 5 and 7 - no specific link with the objectives of the Convention had been established, and suggested that a phrase to that effect should be added.

107. Mr. DIACONU proposed, accordingly, that the phrase ", including the objectives of the Convention," should be inserted after the words "human rights questions".

108. Mr. SHERIFIS, recalling in particular paragraph 17 of the report of Morocco, asked whether, in welcoming the State party's new policy, the implication was not that Morocco had not been paying adequate attention to human rights before.

109. Mr. de GOUTTES (Country Rapporteur) said that the reference to the "increased attention" being given to human rights questions did not imply that none had been given in the past.

110. Paragraph 3, as amended, was adopted.

Paragraph 4

111. Mr. DIACONU said that the use of the term "International Bill of Human Rights" - which was normally taken to include only the Universal Declaration of Human Rights and the two international human rights covenants - was restrictive and would not necessarily be clear to the State party, and proposed using instead the words "relevant international human rights instruments".

112. Mr. de GOUTTES (Country Rapporteur) proposed the addition of ", including the Convention" at the end of the sentence, to meet Mr. Rechetov's concern.

113. Paragraph 4, as amended, was adopted.

114. Mr. Diaconu took the Chair.

Paragraph 7

115. Mr. de GOUTTES (Country Rapporteur) proposed the addition of the phrase "including the aims of the Convention," after the words "human rights,".

116. Paragraph 7, as amended, was adopted.

The meeting rose at 1 p.m.